MR. *CHAIRMAN-*. I know that there ate somle objections. At the time of the introduction of the Bil! I vill give you a chance.

SHRI LAL K. ADVANI (Madhya Pradesh); About Special Mentions?

MR. CHIRM AN: We will come to them, after ihe introduction of the. Bill.

SHRI SUSHIL CHAND MOHUNTA: At the stage of introduction, for leave to permit introduction of this Bill I have objection.

MR. CHAIRMAN: Mr. Mohunta, I am going to give you an opportunity. I have told Mr. Advani. First of all, the procedure is this. Let me clarify. First the Minister wil] make the statement with regard to the Ord'uiance and nobody can raise any objection. Then h_e will seek to introduce the Bill- At ihat stage you can...

SHRl SUSHIL CHAND MOHUNTA: I have only one. objection with regard Io the laying of the statement on th.. Table regarding the Ordinance, because this Ordinance v\;is Ir.ifted without any powers. The Central Govern- i ment does not hive any powers at all. The Constitution provides...

MR. CHAIRMAN; You can discuss it at that time. T have got the Rules he At the time of laying the Statement on the Ordinance no discussion wilj be allowed. At ih_e time whe_n he introduces the Bin to replace the Ordinance. if there is , ejection I wil] give you an opportunity. Th.it is. T follow very correctly the procedure.

SHRI B. SHANKARANAND: Sir, I . beg to lay on the Table a statement (in English and Hindi) explaining the circumstances which necessitated immediate legislation by the Ravi and Beas Waters Tribunal Ordinance, 1986.

[Placed in Library. *See.* No. LT— 1994/86].

THE INTER-STAT!-, WATER DIS-PUTES (AMENDMENT BILL. 1986

MR. CHAIRMAN: Now. before I call tho Minister to move for leave to introduce this Bill, I think I would follow j Ihe other procedure. T will ask him to to move for Jeave and *thin* I will hear th<; objections. You move for leave to introduce ihe Bill.

THE MINISTER OF WATER RE-SOURCES (SHRI B. SHANKARANAND): Sir, I beg to move for leave to introduce a Bill further to amend the Imer-Stale Water Disputes Acl, 1956.

The qnestion was proposed

MR. CHAIRMAN; Now, objections. Mr. Jaswant Singh.

SHRI JASWANT SINGH (Rajasthan): Mr. Chairman, Sir, I will refer to Rule 67, from which I derive m_y objection, and I will also draw your attention t_c. Article 262 of the Constitution. Article 262 of the Constitution relates to disputes relating to water. And it is necessary for me here tO sustain what I am saying that it is outside the legislative competence of thi_s Council or this House to legislate upon thi~ particular issue. I draw your attention to article 262 which says:

> "Parliament may by law provide for the adjudication of any dispute or complaint with respect to the use, distribution or control of th_e waters of, or in. any inter-state river or river valley."

Tlie key words are "inter State river or river valley". The specific objection is about the legislative competence of this House lo take up an issue relating to. rivers which are not inter-State, which do not relate to the three specific States here referred to as far a_s the Punjab settlement is concerned. And water itself specifically i_s a Slate subject. As far as th_e usage of .water specifically is concerned, the Constitution itself is clear. In explaining the need for an extra-judicial machinery to settle inter-State disputes relating to water supplies, a joint parliamentary committee had been formed which observed that the effect of this is to give each province complete powers over water supplies within th_c province. A distinction, therefore, has to be made between the powers of th. State within tho State specifically limiting itself to the usage of water. When it comes to inter-State rivers or inter-Stale river valleys, the competence of this Hous- to legislate on that is not there, Sff.

I have a further objection. Even at ihe stage <Jjf Uiri-partite discussions, the leaders of the Akali Dal had conceded that Rajasthan is not a pany to this issue and that the whole matter b- settled by adjudication. I have another point. Ihe Prime Minister, at th$_c$ signing of the settlement with late Harchand Singh Langowal, had signed the agreement not between tw$_0$ States; it was a$_n$ agreement signed by the Government of Indi-, with a political party, and in that, the Prime Minister had no authority either to adjudicate or to decide upon the shares of waters ei the respective States.

Further. Sir, the fixing of the lst of July. 1985 as a kind of an arbitrary cutoff dale pre-judged the issue of the sharing of river waters even befor$_e$ any tribunal could be established whether by an Ordinanc? or by a Bill that followed the Ordinance or by a further Bill as is done now.

Sir, the promulgation of the Ordinance by the President on the 24th January, 1986 was yet another arbitrary action. The subsequent conversion cf this Ordinance into $_a$ Bill and keeping it pending fcr so many months without consideration by either of the Houses, demonstrates administrative vacillation, in-decisiveness and *ad-hocism.*

Sir, T have further objec!ions. The Statement of Objects $_a$nd Reasons" as given by the hon. Minister in the body ol the amending Bill which is intended to be introduced in the House avers that the tribunal contemplated could not be set up du$_e$ to unavoidable' administrative reascns. This is not convincing. Further, in the Bill, for whose introduction permission is being sought. there is no nexus between the stated objectives of the amending Bill and its real intentions, which is to concede to Punjab that which is not its. Sir, I would als$_0$ like to mention here that it is unprecedented and reflective of the *ad-hoc ism* which is the characteristic trade-mark of the functioning of this Government that on the eve of the rising of this House, we are expected, as Members belonging to the respective States in this Council of States, to deliberate upon and decide upon an issue which is of vital concern to many States. Sir, the incorporation $_0$f a politi cal settlement, a memorandum of settle ment...

MR. CHAIRMAN; You aie going to the merits of the Bill.

SHRI JASWANT SINGH: No. This is a substantive issue which I am coming to. The incorporation of the political settlement of the 24th July, 1985 $_{in}$ the statute-book of India...

MR. CHAIRMAN; No, please. I cannot allow.

SHRl JASWANT SINGH:…,$_;$ is a wholly arbitrary act...

MR. CHAIRMAN: These are all merits of the case-

SHRI JASWANT SINGH: 1 would, therefore conclude that unless at this stag, of introduction itself we do not judge calmly and deliberately upon the legislative competence of this House, unless at the stage of introduction the Government of India does not come ward categorically to say that ihe interests cf the farmers of Rajasthan shall' $_n$ot h, permitted to suffer, that the agreements of 1955 and 1981 shall not be re-opened and that Rajasthan shall not be..:

MR. CHAIRMAN: Mr. Jaswant Singh, you ,are trying my patience. Yon senior Member, you know very well that at this stage you can raise objection only to the introduction of the Bil] o$_n$ the constitutional basis, but you cannot go into the merits of the Bill at this stage. And, therefore, it is I have given you sufficient opportunity. I now call upon Mr, Mohunta.

SHRI SUSHIL CHAND MOHUNTA (Haryana): Sir, my objections are two-fold. One is that constitutionally Ihey do not power as incorporated under article 262 read with item No. 17 of List II which is the State List which says:

> "Water, that j$_s$ to say, water supplies, irrigatio^ and canals, drainage and em-bankments, water storage and water power subject to the provisions of entry 56 of List I."

[Shri Sushi] Chand Mohunta]

Entry 56 cf List I only says:

> "Regulation and development of inter-State rivers and river valleys to the extent to which such regulation and development under the control $_0$f ihe Union is declared by Parliament by law to be expedient in the public interest."

My humb]$_e$ submission is that in 1955 an agreement was signed whereby the surplus waters of the Ravi and the Bias flowing into Pakistan wer$_e$ apportioned betwee$_n$ the erstwhile States *ot* Punjab and Rajasthan, and in 1966 when Punjab was bifurcated into the States of Haryana and Punjab through an Act called the Punjab Reorganisation Act, 1966, Section 78 of the Punjab Reorganisation Act provided that all disputes regarding the apportionment and division of waters between the tw$_0$ states shall be decided b$_v$ both the States concerned jointly and in case they are not able to decide the matter, the$_n$ the matter shall be referred to the Centr,, and the Centre shall intervene and decide it for them, not through any Act but only/ through the volition of th$_e$ Centr,, by making a contribution towards deciding the dispute betwee$_n$ the parties. New, referring the matter to the Inter-Slate Tribunal under the Act of 1956"* gives a view, a picture, that the water dispute heing sought to be remedied j$_s$ an inter-State dispute. It is not an inter-State dispute arising out of the partition of the erstwhile Punjab. It is the assets and the liabilities of Punjab which were to be app-ortioned between Haryana and Punjab in whatever ratio was decided upon or agreed upon. Under these circumstances, recourse to the power of amending the. 1956 Act of recourse as the Ordinance does, of having a new Central Act to decide the water dispute between the two States is absolutely uncalled for, without any jurisdiction without any power. The onlv thing which can at best *be* done is exercising and invoking the powers given to the Central Government under Section 78 of the Punjab Reorganisation Act.

Another objection is there was a solemn agreement in 1981 between the State Gove-rnment of Rajasthan, the State Governmen; of Punjab, the State Government of Haravana and the Union of India, to which the former Prime Minister herself was a I signatory Four various Governments signed a solemn agreement. And that agreement cannot be rescinded by any one party. That agreement can be rescinded only by all the parties to thg agreement. Without rescinding that agreement you have no jurisdiction whatsoever to come up with a legislation like this. Therefore, my objection is thai introduction of the Bill is bad'at the inception. It cannot be introduced in Parliament, lt is bad. And the agreement can only be rescinded by all Ihe parties concerned. The dispute should be settled under Section 78 of the Punjab Reorganisation .Act.

SHRl R-. SHANKARANAND: Sir I have heard the objections raised by the hon. Members. Most of Ihe objections raised here are on merits of the case rather than the constitutionality of introduction of any Bill.

If you look at articU 26?.. yon will see what is written there. I would like to cjuote it:

> "Adjudication of disputes relating to waters of inter-State rivers or river valleys:
>
> (1) Parliament may by law provide for the adjudication of any dispute or complaint with respect to the use, distribution or control of the waters of, or in, any inter-State river or river valley.
>
> (2) Notwithstanding anything in this Constitution, Parliament may by law provide tha^ neither the Supreme Court nor any other court shall exercise jurisdiction in respect of any such dispute or complaint as is referred to in clause (1)."

Now, Sir, here is the Bill. Perhaps the honourable Members are aware that a Bill was introduced in the Lok Sabha for the implementation of the Punjab accord, signed by the Prime Minister and the late Sant Longowal, for the implementation of clauses 9.1 and 9.? $_0$f the accord which relate to the appointment of a tribunal for examining the share of Punjab and Haryana in their remaining waters; I say "remaining waters". We wanted to get the Bill passed in both the

Houses before the Ordinance could lapse by the period stipulated therefor. We thought that, with this very amendment that we are seeking in older to resolve the dispute between the two States for their share in tneir remaining waters, we could very well take recourse to amending the original Act of 1956 which is concerned with inter-State disputes. Now, the point raised by one of the honourable Members is that it is not an inter-State river. Sir, it is a matter of fact and it is not a constitutional point. Nothing in th$_e$ Constitution has said that certain rivers are inter-State rivers and certain rivers are not inter-State rivers. When we are going into the facts of the case, perhaps we cannot depend on the provisions of the Constitution. The constitutionality of certain procedures or law can only be discussed or raised as an objecion at the timo of introduction of the Bill and not any detailed dissection or analysis of certain elements or facts which are involved in the very Bill itself. So, there is nothing Constitutional about it We feel that, according to Ihe advice, legal advice, we can bring forward this Bill with the ambit of the legal provisions that are existing and so, Sir, I am introducing the Bill.

About the rest of the questions like protection of the interests of certain States, etc., Sir, these are all things Which can be taken into consideration at the time of discussion on the Bill.

SHRI SUSHIL CHAND MOHUNTA; specific question has not been answered.

SHRI SUSHIL CHAND MOHUNTA: Sir, I have raised a question.

MR. CHAIRMAN: Just a minute. I am giving my ruling.

It is a well-established practice, both in this House and the other House, in both Houses of Parliament, that the Chair does not give any ruling on. the Constitutional validity of any Biil. Whether a Bill is *inter vires* or *ultra vires is* for the courts to decide and the Chair does not give a ruling on that.

In accordance with the precedents in this regard, I overrule the objections . The other points cm be raised during the discussion on the merits oil the Bill.

Now, I put the motion to vote.

The question is:

"That leave be granted to introduce a Bill further to amend the Inter-State Water Disputes Act, 1956."

The motion was adopted.

SHRI B. SHANKARANAND: Sir, I introduce the Bill.

MR. CHAIRMAN: We shall now take up Special Mentions. Yes, Mr. Advani.

REFERENCE TO THE REPORTED PERSECUTION OF HINDUS IN PAKISTAN

श्री लाल कृष्ण आडवाणी (मध्य प्रदेश) : सभापति जी, तीन दिन पहले दो खबरें अखबार में छपी थीं, जिनकी तरफ मैं सदन का ध्यान दिलाना चाहता हूं और सरकार का भी ध्यान दिलाना चाहता हूं। वे दोनों खबरें उस भाग से सम्बन्धित हैं, जिससे मेरा जन्म का सम्बन्ध रहा है। मैं सिन्ध का निवासी हूं और इस समय सिन्ध पाकिस्तान का हिस्सा है। पहले खबर थी, कराची की खबर थी कि एक भीड़ ने कल सिन्ध प्रान्त में हिन्दुओं के घरों और दकानों की लूटपाट की और उन्हें आग लगा दी, यह जानकारी आज यहां सरकारी अधिकारियों ने दी। आगजनी और लूटपाट से पूर्व भारत में एक धार्मिक स्थान को लेकर हुए विवाद के विरोध में लगभग 300 लोग एक जगह एकत्र हुए।

दूसरी खबर अगले दिन आई जिसमें कहा गया है —

"Thirty-seven Hindus from Pakistan, including 16 women and 13